

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

AT RICHMOND, MARCH 3, 2022

STATE CLERK'S OFFICE
COMMONWEALTH CONTROL CENTER

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APPLICATION OF

KENTUCKY UTILITIES COMPANY
d/b/a OLD DOMINION POWER COMPANY

CASE NO. PUR-2022-00021

To revise its fuel factor pursuant to
§ 56-249.6 of the Code of Virginia

ORDER ESTABLISHING 2022-2023 FUEL FACTOR PROCEEDING

On February 15, 2022, Kentucky Utilities Company d/b/a Old Dominion Power Company ("KU/ODP" or "Company") filed with the State Corporation Commission ("Commission"), pursuant to § 56-249.6 of the Code of Virginia ("Code"), its application, written testimony, and exhibits proposing to increase its levelized fuel factor by \$0.00615 per kilowatt-hour ("kWh") from \$0.02331 per kWh to \$0.02946 per kWh, effective for service rendered on and after April 1, 2022 ("Application").¹ According to KU/ODP, the proposed fuel factor represents an increase of \$6.15 per month for a residential customer using 1,000 kWh per month.² In addition, KU/ODP filed a Motion for Protective Order ("Motion") in accordance with 5 VAC 5-20-170 of the Commission's Rules of Practice and Procedure, 5 VAC 5-20-10 *et seq.* ("Rules of Practice").

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that this matter should be docketed; KU/ODP should provide public notice of its Application; a public hearing should be scheduled for the purpose of receiving testimony and evidence on the Application; interested persons should have an opportunity to file comments on the Application

¹ Application at 1, 6.

² *Id.* at 5.

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or participate as a respondent in this proceeding; and the Commission's Staff ("Staff") should be directed to investigate the Application and file testimony and exhibits containing its findings and recommendations thereon. We find that the proposed fuel factor should take effect for service rendered on and after April 1, 2022, on an interim basis and subject to modification by further order of the Commission.

We also find that a Hearing Examiner should be assigned to conduct all further proceedings in this matter on behalf of the Commission, including ruling on the Company's Motion and filing a final report containing the Hearing Examiner's findings and recommendations.

The Commission further takes judicial notice of the ongoing public health issues related to the spread of the coronavirus, or COVID-19. The Commission has taken certain actions, and may take additional actions going forward, that could impact the procedures in this proceeding.³ Consistent with these actions, in regard to the terms of the procedural framework established below, the Commission will, among other things, direct the electronic filing of testimony and pleadings, unless they contain confidential information, and require electronic service on parties to this proceeding.

³ See, e.g., *Commonwealth of Virginia, ex rel. State Corporation Commission, Ex Parte: Electronic Service of Commission Orders*, Case No. CLK-2020-00004, 2020 S.C.C. Ann. Rept. 76, Order Concerning Electronic Service of Commission Orders (Mar. 19, 2020), *extended by* 2020 S.C.C. Ann. Rept. 77, Order Regarding the State Corporation Commission's Revised Operating Procedures During COVID-19 Emergency (May 11, 2020); *Commonwealth of Virginia, ex rel., State Corporation Commission, Ex Parte: Revised Operating Procedures During COVID-19 Emergency*, Case No. CLK-2020-00005, 2020 S.C.C. Ann. Rept. 77, Order Regarding the State Corporation Commission's Revised Operating Procedures During COVID-19 Emergency (Mar. 19, 2020) ("Revised Operating Procedures Order"), *extended by* 2020 S.C.C. Ann. Rept. 78, Order Regarding the State Corporation Commission's Revised Operating Procedures During COVID-19 Emergency (May 11, 2020); *Commonwealth of Virginia, ex rel. State Corporation Commission, Ex Parte: Electronic service among parties during COVID-19 emergency*, Case No. CLK-2020-00007, 2020 S.C.C. Ann. Rept. 79, Order Requiring Electronic Service (Apr. 1, 2020).

We note that the Company's proposed fuel factor will increase customer bills on an interim basis subject to a determination in this proceeding. We realize that the ongoing COVID-19 public health issues have caused devastating economic effects that impact utility customers. We have responded to this economic emergency by, among other actions, directing Virginia utilities to offer extended payment plans, without late fees for those who are current on such plans, to protect customers from service disconnection. We are sensitive to the effects of rate increases, especially in times such as these. The Commission, however, must and will follow the laws applicable to this case, as well as the findings of fact supported by evidence in the record.

Accordingly, IT IS ORDERED THAT:

- (1) This matter is docketed and assigned Case No. PUR-2022-00021.
- (2) The proposed levelized fuel factor shall take effect for service rendered on and after April 1, 2022, on an interim basis and subject to modification by further order of the Commission.
- (3) As provided by Code § 12.1-31 and 5 VAC 5-20-120, *Procedure before hearing examiners*, of the Commission's Rules of Practice, a Hearing Examiner is appointed to conduct all further proceedings in this matter on behalf of the Commission, including ruling on the Company's Motion. A copy of each filing made with the Commission's Clerk's office in this matter shall also be sent electronically to the Office of the Hearing Examiners.⁴
- (4) All pleadings in this matter shall be submitted electronically to the extent authorized by 5 VAC 5-20-150, *Copies and format*, of the Commission's Rules of Practice. Confidential

⁴ Such electronic copies shall be sent to: Wendy.Starkey@scc.virginia.gov and LeaAnn.Robertson@scc.virginia.gov.

and Extraordinarily Sensitive Information shall not be submitted electronically and should comply with 5 VAC 5-20-170, *Confidential information*, of the Rules of Practice. Any person seeking to hand deliver and physically file or submit any pleading or other document shall contact the Clerk's Office Document Control Center at (804) 371-9838 to arrange the delivery.⁵

(5) Pursuant to 5 VAC 5-20-140, *Filing and service*, of the Commission's Rules of Practice, the Commission directs that service on parties and the Staff in this matter shall be accomplished by electronic means. Concerning Confidential or Extraordinarily Sensitive Information, parties and the Staff are instructed to work together to agree upon the manner in which documents containing such information shall be served upon one another, to the extent practicable, in an electronically protected manner, even if such information is unable to be filed in the Office of the Clerk, so that no party or the Staff is impeded from preparing its case.

(6) The Commission hereby schedules a telephonic hearing for the receipt of testimony from public witnesses on the Company's Application, as follows:

- (a) A hearing for the receipt of testimony from public witnesses on the Company's Application shall be convened telephonically at 10 a.m. on June 1, 2022, with no public witness present in the Commission's courtroom.⁶
- (b) To promote fairness for all public witnesses, each witness will be allotted five minutes to provide testimony.
- (c) On or before May 26, 2022, any person desiring to offer testimony as a public witness shall provide to the Commission (a) your name, and (b) the telephone number that you wish the Commission to call during the hearing to receive your testimony. This information may be provided to the Commission in three ways: (i) by filling out a form on the Commission's website at scc.virginia.gov/pages/Webcasting; (ii) by completing and emailing the PDF version of this form to SCCInfo@scc.virginia.gov; or (iii) by calling (804) 371-9141.

⁵ As noted in the Revised Operating Procedures Order, submissions to the Commission's Clerk's Office via U.S. mail or commercial mail equivalents may be subject to delayed processing due to the COVID-19 public health issues.

⁶ The Commission will convene counsel of record in this proceeding to attend the public witness hearing virtually.

(d) Beginning at 10 a.m. on June 1, 2022, the Commission will telephone sequentially each person who has signed up to testify as provided above.

(e) This public witness hearing will be webcast at scc.virginia.gov/pages/Webcasting.

(7) A public evidentiary hearing on the Application shall be convened at 10 a.m. on June 2, 2022, either in the Commission's second floor courtroom located in the Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, or by electronic means, to receive testimony and evidence offered by the Company, respondents, and the Staff on the Application. Further details on this hearing will be provided by subsequent Commission Order or Hearing Examiner's Ruling.

(8) An electronic copy of the Company's Application may be obtained by submitting a written request to counsel for the Company, Kendrick R. Riggs, Esquire, Stoll Keenon Ogden PLLC, 500 West Jefferson Street, Suite 2000, Louisville, Kentucky 40202-2828; or kendrick.riggs@skofirm.com. Interested persons also may download unofficial copies from the Commission's website: scc.virginia.gov/pages/Case-Information.

(9) On or before March 24, 2022, KU/ODP shall publish the following notice as display advertising (not classified) on one occasion in newspapers of general circulation throughout the Company's service territory in Virginia:

NOTICE TO THE PUBLIC OF 2022-2023 FUEL FACTOR
PROCEEDING FOR KENTUCKY UTILITIES COMPANY
D/B/A OLD DOMINION POWER COMPANY
CASE NO. PUR-2022-00021

On February 15, 2022, Kentucky Utilities Company d/b/a Old Dominion Power Company ("KU/ODP" or "Company") filed with the State Corporation Commission ("Commission"), pursuant to § 56-249.6 of the Code of Virginia, its application, written testimony, and exhibits proposing to increase its levelized fuel factor by \$0.00615 per kilowatt hour ("kWh") from \$0.02331 per

kWh to \$0.02946 per kWh, effective for service rendered on and after April 1, 2022 ("Application"). According to KU/ODP, the proposed fuel factor represents an increase of \$6.15 per month for a residential customer using 1,000 kWh per month.

The proposed increase in the fuel factor will take effect for service rendered on and after April 1, 2022, on an interim basis and subject to modification by further order of the Commission.

The Commission entered an Order Establishing 2022-2023 Fuel Factor Proceeding that, among other things, scheduled public hearings on KU/ODP's Application. On June 1, 2022, at 10 a.m., the Commission will hold a telephonic hearing, with no witness present in the Commission's courtroom, for the purpose of receiving the testimony of public witnesses. On May 26, 2022, any person desiring to offer testimony as a public witness shall provide to the Commission (a) your name, and (b) the telephone number that you wish the Commission to call during the hearing to receive your testimony. This information may be provided to the Commission in three ways: (i) by filling out a form on the Commission's website at scc.virginia.gov/pages/Webcasting; (ii) by completing and emailing the PDF version of this form to SCCInfo@scc.virginia.gov; or (iii) by calling (804) 371-9141. This public witness hearing will be webcast at scc.virginia.gov/pages/Webcasting.

On June 2, 2022, at 10 a.m., either in the Commission's second floor courtroom located in the Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, or by electronic means, a hearing will be convened to receive testimony and evidence from the Company, any respondents, and the Commission's Staff. Further details on this hearing will be provided by subsequent Commission Order or Hearing Examiner's Ruling.

The Commission has taken judicial notice of the ongoing public health issues related to the spread of the coronavirus, or COVID-19. In accordance therewith, all pleadings, briefs, or other documents required to be served in this matter shall be submitted electronically to the extent authorized by 5 VAC 5-20-150, *Copies and format*, of the Commission's Rules of Practice and Procedure ("Rules of Practice"). Confidential and Extraordinarily Sensitive Information shall not be submitted electronically and should comply with 5 VAC 5-20-170, *Confidential information*, of the Rules of Practice. Any person seeking to hand deliver and physically file or submit any pleading or other document shall

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On or before April 27, 2022, each respondent may file with the Clerk of the Commission any testimony and exhibits by which the respondent expects to establish its case. Any respondent unable, as a practical matter, to file testimony and exhibits electronically may file such by U.S. mail to the Clerk of the Commission at the address listed above. Each witness's testimony shall include a summary not to exceed one page. All testimony and exhibits shall be served on the Commission's Staff, the Company, and all other respondents simultaneous with its filing. In all filings, respondents shall comply with the Rules of Practice, including 5 VAC 5-20-140, *Filing and service*, and 5 VAC 5-20-240, *Prepared testimony and exhibits*. All filings shall refer to Case No. PUR-2022-00021.

Any documents filed in paper form with the Office of the Clerk of the Commission in this docket may use both sides of the paper. In all other respects, except as modified by the Commission's Order, all filings shall comply fully with the requirements of 5 VAC 5-20-150, *Copies and format*, of the Rules of Practice.

The Company's Application, the Commission's Rules of Practice and the Commission's Order may be viewed at: scc.virginia.gov/pages/Case-Information.

KENTUCKY UTILITIES COMPANY
D/B/A OLD DOMINION POWER COMPANY

(10) The Company shall serve each official listed in 20 VAC 5-204-10 J 1 as provided by 20 VAC 5-204-10 J 2.

(11) On or before April 22, 2022, the Company shall provide proof of the notice and service required by Ordering Paragraphs (9) and (10), including the name, title, and address of each official served, with the Clerk of the Commission at scc.virginia.gov/clk/efiling/.

(12) On or before May 25, 2022, any interested person may submit written comments on the Application by following the instructions found on the Commission's website: scc.virginia.gov/casecomments/Submit-Public-Comments. Those unable, as a practical matter, to submit comments electronically may file such comments by U.S. mail to the Clerk of the State

Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. All comments shall refer to Case No. PUR-2022-00021.

(13) On or before April 27, 2022, any person or entity wishing to participate as a respondent in this proceeding may do so by filing a notice of participation at scc.virginia.gov/clk/efiling. Those unable, as a practical matter, to file a notice of participation electronically may file such notice by U.S. mail to the Clerk of the Commission at the address listed in Ordering Paragraph (12). Such notice of participation shall include the email addresses of such parties or their counsel, if available. The respondent simultaneously shall serve a copy of the notice of participation on counsel to the Company. Pursuant to 5 VAC 5-20-80 B, *Participation as a respondent*, of the Rules of Practice, any notice of participation shall set forth: (i) a precise statement of the interest of the respondent; (ii) a statement of the specific action sought to the extent then known; and (iii) the factual and legal basis for the action. Any organization, corporation, or government body participating as a respondent must be represented by counsel as required by 5 VAC 5-20-30, *Counsel*, of the Rules of Practice. All filings shall refer to Case No. PUR-2022-00021.

(14) Within three (3) business days of receipt of a notice of participation as a respondent, the Company shall serve a copy of the public version of its Application on the respondent.

(15) On or before April 27, 2022, each respondent may file with the Clerk of the Commission, at the address in Ordering Paragraph (12) or at scc.virginia.gov/clk/efiling, any testimony and exhibits by which the respondent expects to establish its case. Each witness's testimony shall include a summary not to exceed one page. All testimony and exhibits shall be served on the Staff, the Company, and all other respondents simultaneous with its filing. In all filings, respondents shall comply with the Rules of Practice, as modified herein, including, but not

limited to: 5 VAC 5-20-140, *Filing and service*, and 5 VAC 5-20-240, *Prepared testimony and exhibits*. All filings shall refer to Case No. PUR-2022-00021.

(16) On or before May 6, 2022, the Staff shall investigate the Application and file with the Clerk of the Commission its testimony and exhibits concerning the Application, and each Staff witness's testimony shall include a summary not to exceed one page. A copy thereof shall be served on counsel to the Company and all respondents.

(17) On or before May 18, 2022, KU/ODP shall file with the Clerk of the Commission any rebuttal testimony and exhibits that it expects to offer, and each rebuttal witness's testimony shall include a summary not to exceed one page. The Company shall serve a copy of its rebuttal testimony and exhibits on the Staff and all respondents.

(18) Any documents filed in paper form with the Office of the Clerk of the Commission in this docket may use both sides of the paper. In all other respects, except as modified herein, all filings shall comply fully with the requirements of 5 VAC 5-20-150, *Copies and format*, of the Rules of Practice.

(19) The Commission's Rules of Practice, 5 VAC 5-20-260, *Interrogatories or requests for production of documents and things*, shall be modified for this proceeding as follows: responses and objections to written interrogatories and requests for production of documents shall be served within five (5) calendar days after receipt of the same. In addition to the service requirements of 5 VAC 5-20-260 of the Rules of Practice, on the day that copies are filed with the Clerk of the Commission, a copy of the interrogatory or request for production shall be served electronically on the party to whom the interrogatory or request for production is directed or the assigned Staff attorney, if the interrogatory or request for production is directed to the

Staff.⁷ Except as modified herein, discovery shall be in accordance with Part IV of the Rules of Practice, 5 VAC 5-20-240 *et seq.*

(20) This matter is continued.

A COPY hereof shall be sent electronically by the Clerk of the Commission to all persons on the official Service List in this matter. The Service List is available from the Clerk of the Commission.

⁷ The assigned Staff attorney is identified on the Commission's website, scc.virginia.gov/pages/Case-Information, by clicking "Docket Search," then clicking "Search by Case Information," and entering the case number, PUR-2022-00021, in the appropriate box.